

### **REMARKS**

This is a full and timely response to the outstanding non-final Office Action mailed May 19, 2006. In the Office Action claims 1-3, and 6-10 were preliminarily rejected as allegedly being anticipated under 35 USC §102(b). In addition, claims 4 and 5 were preliminarily rejected as being allegedly unpatentable under 35 USC §103(a). In the current Response, claims 11 and 12 have been newly added and do not add new matter, claims 1, 3-6, and 8-10 have been amended, and claims 2 and 7 have been cancelled without prejudice.

### **RESPONSE TO CLAIM REJECTIONS BASED ON ANTICIPATION**

In the Office Action, claims 1-3, and 6-10 were preliminarily rejected under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. patent number 6,282,297 to Lin. For a proper rejection of a claim under 35 U.S.C. Section 102(b), the cited reference must disclose all elements/features/steps of the claim. See, *e.g.*, *E.I. du Pont de Nemours & Co. v. Phillips Petroleum Co.*, 849 F.2d 1430, 7 USPQ2d 1129 (Fed. Cir. 1988).

### **Claim 1**

Amended independent claim 1 reads:

1. A loudspeaker system comprising a woofer, a midrange speaker, and a tweeter, the midrange speaker and the tweeter being positioned in front of the woofer, the loudspeaker system comprising:

support means having a mounting member shaped to be received in an opening, wherein said mounting member is in a first plane;

means for mounting the woofer on the support means, wherein a center axis of the woofer on the support means is at a first acute angle to the first plane;

means for securing the midrange speaker and the tweeter in front of the woofer, a plane of the midrange speaker and the tweeter being at a second acute angle with the first plane; and

a midrange speaker and tweeter baffle positioned between the woofer, and the midrange speaker and tweeter, wherein the midrange speaker and tweeter baffle extends partially in front of the woofer.

Independent claim 1 is allowable for at least the reason that Lin does not disclose that a midrange speaker and tweeter are secured in front of a woofer, where a midrange speaker and tweeter baffle is positioned between the woofer, and the midrange speaker and tweeter.

In accordance with the present invention, the baffle is positioned between the woofer, and the midrange speaker and tweeter, and extends partially in front of the woofer to direct sound from the tweeter and midrange speaker in a direction angular to a primary direction in which sound emanates from the woofer. As a result, the plane in which the direction of sound in the midrange speaker is primarily located is angular to the plane in which the direction of sound from the woofer is located. In addition, the amount of baffle the midrange speaker projects from is increased. Accordingly, diffractions and reflections around the midrange speaker are thereby minimized. These diffraction and reflection

problems typically affect the mid-frequencies when the midrange driver or woofer is inadequately baffled or when the midrange driver is occluded by solid objects (page 1, lines 25-33, and page 5, lines 3-13).

Lin teaches a squawker, having a cylindrical base installed at the center of the squawker, with a woofer and a tweeter positioned thereon. Therefore, Lin does not disclose that a midrange speaker and a tweeter are both positioned in front of a woofer. In addition, Lin does not disclose means for securing the midrange speaker and the tweeter in front of the woofer.

Further, Lin does not disclose a midrange speaker and tweeter baffle positioned between the woofer, and the midrange speaker and tweeter, wherein the midrange speaker and tweeter baffle extends partially in front of the woofer. In the Office Action, with regard to the rejection of claims 4 and 5, it is claimed that a frusto conic baffle is well known in the art and therefore, it allegedly would have been obvious to one having ordinary skill in the art at the time the invention was made, to use a baffle to direct sound.

First, Applicants traverse the rejection on the grounds that the Office Action does not cite a reference in support of the assertion and that having a baffle extending partially in front of the woofer in the structural arrangement claimed by amended claim 1, is not "of such notorious character that judicial notice can be taken". Thus, under M.P.E.P. § 706.02(a), the Applicants respectfully request the Examiner to cite references in support of such a position.

MPEP Section 2144.03, entitled "Reliance on Common Knowledge in the Art or 'Well Known' Prior art," states that when an Applicant traverses such a finding, the Examiner is required to either cite a reference or prepare an affidavit in support of his or

her position. Accordingly, Applicants respectfully traverse all of the findings of well known prior art contained in the above-referenced Office Action.

Second, as mentioned above, the baffle is positioned between the woofer, and the midrange speaker and tweeter, and extends partially in front of the woofer to direct sound from the tweeter and midrange speaker in a direction angular to a primary direction in which sound emanates from the woofer. As a result, the plane in which the direction of sound in the midrange speaker is primarily located is angular to the plane in which the direction of sound from the woofer is located. In addition, the amount of baffle the midrange speaker projects from is increased. Accordingly, diffractions and reflections around the midrange speaker are thereby minimized. These diffraction and reflection problems typically affect the mid-frequencies when the midrange driver or woofer is inadequately baffled or when the midrange driver is occluded by solid objects (page 1, lines 25-33, and page 5, lines 3-13). The Applicants respectfully submit that this use and configuration of the woofer, baffle, midrange speaker, and tweeter, are not known to one having ordinary skill in the art.

As a result of the above-mentioned, the Applicants respectfully request allowance of claim 1.

### **Claims 3-6 and 9-12**

If independent claim 1 is allowable over the prior art of record, then its dependent claims 3-6 and 9-12 are allowable as a matter of law. *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). Additionally and notwithstanding the foregoing, these dependent claims recite further features and/or combinations of features (as is apparent by examination of the claims themselves) that are patentably distinct from the prior art of record. Hence, there are other reasons why these dependent claims are allowable.

### **Claims 11 and 12**

Claim 11 adds the element of the first acute angle and the second acute angle not being the same. Claim 12 adds the element of the second acute angle being larger than the first acute angle. Since Lin does not disclose these elements, the Applicants respectfully request allowance of claims 11 and 12 for at least these reasons.

### **Claim 8**

Amended independent claim 8 reads:

8. A loudspeaker system comprising a woofer, a midrange speaker and a tweeter, ***where the midrange speaker and tweeter are positioned in front of the woofer***, means supporting the woofer, speaker and tweeter for mounting within a structure having a surface with an opening therein with one side of the system essentially flush with the opening, means positioning the woofer within the structure with its axis at an acute angle to the surface, ***means positioning the speaker and tweeter intermediate the surface and the woofer*** with the axis of each of the speaker and tweeter at an acute angle to surface which angle is non-parallel to the angle of the woofer.

***(Emphasis Added)***

Lin does not disclose the midrange speaker and tweeter being positioned in front of the woofer and a means positioning the speaker and tweeter intermediate the surface and the woofer. Instead, Lin teaches a squawker, having a cylindrical base installed at the center of the squawker, with a woofer and a tweeter positioned thereon. For at least this reason, claim 8 should be allowed.

### **RESPONSE TO CLAIM REJECTIONS BASED ON OBVIOUSNESS**

In the Office Action, claims 4 and 5 have been preliminarily rejected under 35 USC§103(a) as being unpatentable over Lin. It is well established at law that, for a proper rejection of a claim under 35 U.S.C. §103 as being obvious based upon a combination of references, the cited combination of references must disclose, teach, or suggest, either implicitly or explicitly, all elements/features/steps of the claim at issue. See, e.g., In re Dow Chemical, 5 U.S.P.Q. 2d 1529, 1531 (Fed. Cir. 1988), and In re Keller, 208 U.S.P.Q. 871, 881 (C.C.P.A. 1981).

In the Office Action, with regard to the rejection of claims 4 and 5, it is claimed that a frusto conic baffle is well known in the art and therefore, it allegedly would have been obvious to one having ordinary skill in the art at the time the invention was made, to use a baffle to direct sound. The Applicants respectfully traverse the rejection on the grounds that the Office Action does not cite a reference in support of the assertion and that having a baffle extending partially in front of the woofer in the structural arrangement claimed by amended claim 1, is not "of such notorious character that judicial notice can be taken". Thus, under M.P.E.P. § 706.02(a), Applicants respectfully request the Examiner to cite references in support of such a position.

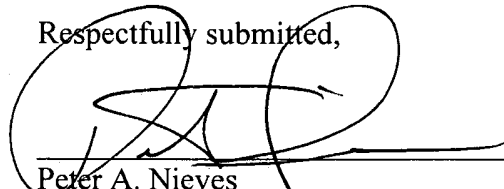
MPEP Section 2144.03, entitled "Reliance on Common Knowledge in the Art or 'Well Known' Prior art," states that when an Applicant traverses such a finding, the Examiner is required to either cite a reference or prepare an affidavit in support of his or her position. Accordingly, the Applicants respectfully traverse all of the findings of well known prior art contained in the above-referenced Office Action.

In addition, if independent claim 1 is allowable over the prior art of record, then its dependent claims 4 and 5 are allowable as a matter of law. *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). Additionally and notwithstanding the foregoing, these dependent claims recite further features and/or combinations of features (as is apparent by examination of the claims themselves) that are patentably distinct from the prior art of record. Hence, there are other reasons why these dependent claims are allowable.

### **CONCLUSION**

In light vision of the foregoing and for at least the reasons set forth above, the Applicants respectfully request favorable reconsideration and allowance of the present application and the presently pending claims. If in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (603) 627-8134.

Respectfully submitted,



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